

EXHIBIT 6

Buto, Kathleen - Vol. II

September 13, 2007

Washington, DC

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL) MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
PRICE LITIGATION) 01-CV-12257-PBS
THIS DOCUMENT RELATES TO)
U.S. ex rel. Ven-a-Care of) Judge Patti B.
the Florida Keys, Inc.) Saris
v.) Chief Magistrate
Abbott Laboratories, Inc.,) Judge Marianne B.
No. 06-CV-11337-PBS) Bowler

(captions continue on following pages)

Videotaped deposition of Kathleen Buto

Volume II

Washington, D.C.

Thursday, September 13, 2007

9:00 a.m.

Henderson Legal Services
202-220-4158

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<p>1 submitted a plan based upon solely AWP you would 2 have expected that HCFA would have also 3 disapproved those plans, right? 4 MR. DRAYCOTT: Objection. 5 A. I guess the nuance to me is if it's AWP 6 minus 40 percent would I have disapproved it? I 7 don't know. It really had to do with AWP as a 8 basis and AWP unmodified. 9 Q. Fair enough. Now, let's go to 1991. 10 And I want to turn your attention to the proposed 11 rule that you submitted in 1991 or that HCFA 12 submitted regarding Medicare reimbursement. 13 A. Yes. 14 Q. And as you recall HCFA submitted a 15 proposed rule that it would be 85 percent of AWP, 16 correct? 17 A. Correct. 18 Q. But that wasn't adopted, right? 19 A. Right. 20 Q. And what ended up occurring is that 21 HCFA or ultimately Congress adopted 100 percent 22 AWP reimbursement for Medicare drugs or actual</p>	<p>1 MR. DRAYCOTT: Objection. 2 A. We -- that's correct. We did not 3 intend for that to be the sole method, as you 4 know. 5 Q. You didn't spend to pay 100 percent AWP 6 forever because you intended to do the actual 7 surveys of acquisition costs, right? 8 A. That's correct. 9 Q. But that never happened, right? 10 A. That's also correct. 11 MR. GORTNER: I have no further 12 questions. Thank you for your time. 13 THE WITNESS: Thank you. 14 MR. DRAYCOTT: Unless I hear an 15 objection right now I'm assuming we're concluded. 16 With the reservation by Mr. Torborg stated 17 earlier. 18 THE VIDEOGRAPHER: This concludes 19 volume 2 tape 3 in the deposition of Kathleen 20 Buto. The deposition concludes at 12:40 p.m. 21 (Whereupon, at 12:40 p.m. the 22 deposition was adjourned.)</p>
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<p>1 acquisition cost, right? 2 A. It wasn't Congress now. It was HCFA in 3 the final rule. 4 Q. That's right. Now, there's no doubt 5 that as of 1991 HCFA knew that unmodified AWP, a 6 hundred percent AWP, did not represent actual 7 acquisition cost, right? 8 A. Yes. 9 Q. And there was no doubt that in 1991 10 HCFA knew that there was no predictable 11 relationship between AWP and actual acquisition 12 cost, right? 13 A. Based on the surveys from the IG, 14 that's correct. That was our belief. Again, we 15 didn't have independent data. 16 Q. Right. That was your belief at that 17 time, right? 18 A. That's correct. 19 Q. And it's fair to say that when HCFA 20 adopted the final rule in 1991 paying 100 percent 21 AWP, it knew that if it paid 100 percent AWP it 22 was not paying actual acquisition cost, right?</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p> <p style="text-align: center;">KATHLEEN BUTO</p> <p>Subscribed and sworn to and before me this _____ day of _____, 20____.</p> <p style="text-align: center;">_____ Notary Public</p>

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